

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NORTH CAROLINA
3 EASTERN DIVISION
4

5 UNITED STATES OF AMERICA)

ORIGINAL

6)

7)

8 V.) 4:12-CR-57-D-3

9)

10)

11 DEMARIO QUIENTEL WILLIAMS)

12

13 TRANSCRIPT OF SENTENCING PROCEEDINGS

14 November 18, 2014

15 8:59 a.m. - 9:34 a.m.

16 Before Chief District Judge James C. Dever III

17

18 APPEARANCES:

19 For the Government:
20 John H. Bennett, Esquire
21 Assistant U.S. Attorney
22 310 New Bern Avenue, Suite 800
23 Raleigh, NC 27601

24 For the Defendant:
25 James A. Martin, Esquire
201 South Evans Street
Suite 153
Greenville, NC 27858

Reported by: Leslie Christian
Stenograph with Computer-Aided Transcription

1 P R O C E E D I N G S

2 THE COURT: Good morning and welcome
3 to the United States District Court for the Eastern
4 District of North Carolina. The first matter I will
5 take up is the sentencing of Demario Williams.
6 Good morning, Mr. Bennett. Good morning, Mr. Martin.

7 MR. MARTIN: Good morning.

8 THE COURT: Mr. Martin, are you and
9 Mr. Williams ready to proceed?

10 MR. MARTIN: Yes, Your Honor.

11 THE COURT: Mr. Bennett, is the
12 government ready?

13 MR. BENNETT: We are, Your Honor.
14 Thank you.

15 THE COURT: At this time I would ask
16 that Mr. Williams be sworn or affirmed.

17
18 DEMARIO QUIENTEL WILLIAMS,
19 Was duly sworn or affirmed.

20
21 THE COURT: Mr. Williams, do you
22 understand that having been sworn that your answers to
23 my questions are subject to the penalty of perjury?

24 MR. WILLIAMS: Yes, sir.

25 THE COURT: Have you taken any kind of

1 medicine or any other substance in the last 48 hours
2 that would affect your ability to hear and understand
3 these proceedings?

4 MR. WILLIAMS: No, sir.

5 THE COURT: Do you know why you're
6 here today?

7 MR. WILLIAMS: Yes, sir.

8 THE COURT: Mr. Martin, do you have
9 any reason to doubt Mr. Williams's competence to go
10 forward today?

11 MR. MARTIN: No, Your Honor.

12 THE COURT: Mr. Bennett, do you have
13 any reason to doubt Mr. Williams's competence to go
14 forward today?

15 MR. BENNETT: No, Your Honor.

16 THE COURT: Based on Mr. Williams's
17 answers to my questions, my observation of Mr. Williams
18 and the answers from counsel I find that Mr. Williams
19 is competent to go forward here today.

20 Mr. Williams, as you know, you have
21 entered a plea of guilty to two charges. The first
22 charge is interfering with commerce by robbery and
23 aiding and abetting. The second charge is using or
24 carrying a short-barrelled firearm during the relation
25 of a crime of violence and aiding and abetting. You

1 entered a plea of guilty to those charges in this
2 court. In light of some cases from the Supreme Court
3 of the United States including the Booker, Rita, Gall,
4 Kimbrough, Spears and Nelson cases the sentencing
5 guidelines are no longer mandatory, they're advisory.
6 In accordance with those cases are cases from the
7 Fourth Circuit including the Carter, Pauly and Evans
8 cases the sentencing court still must take into account
9 the now advisory guidelines.

10 The Court does this by initially
11 making findings of fact and calculating the advisory
12 guideline range. I will then consider any motion that
13 might be made that might move the range either up or
14 down. I will then consider all arguments your lawyer
15 makes, any statement you would like to make, any victim
16 allocution and the arguments that Mr. Bennett makes on
17 behalf of the United States. I will then determine
18 your sentence and announce it here in court today.
19 That will be the process we'll follow. Mr. Martin, did
20 you receive a copy of the presentence report?

21 MR. MARTIN: Yes, Your Honor.

22 THE COURT: And, Mr. Williams, did you
23 receive a copy of that report?

24 MR. WILLIAMS: Yes, sir.

25 THE COURT: And did you speak with

1 Mr. Martin about the report?

2 MR. WILLIAMS: Yes, sir.

3 THE COURT: At this time the Court
4 will ask that the presentence report be placed in the
5 record under seal. In accordance with the Federal Rule
6 of Criminal Procedure 32 the Court accepts as accurate
7 the presentence report except those matters in dispute
8 as set forth in the addendum. I have reviewed the
9 entire report including the addendum. The addendum
10 states that neither the government nor the defense
11 objects to it. Mr. Martin, is it still the case, no
12 objections from the defense?

13 MR. MARTIN: Yes, Your Honor.

14 THE COURT: Is that correct,
15 Mr. Williams?

16 MR. WILLIAMS: Yes, sir.

17 THE COURT: And no objections from the
18 government; is that correct?

19 MR. BENNETT: No, Your Honor.

20 THE COURT: For purposes of Booker as
21 described the Court calculates the advisory guideline
22 range as follows. The total offense level is 21. The
23 criminal history category is one. The advisory
24 guideline range on Count 1 is 37 to 46 months. The
25 range on Count 2 is 120 months consecutive to whatever

1 the sentence is on Count 1. Does the government object
2 to that advisory guideline range?

3 MR. BENNETT: No, Your Honor.

4 THE COURT: Does the defense object to
5 that advisory guideline range?

6 MR. MARTIN: No, Your Honor.

7 THE COURT: I'll hear from the
8 government in connection with its motion under section
9 5K1.1 U.S.C. Section 3553(e).

10 MR. BENNETT: Thank you, Your Honor.
11 As to the details of the cooperation, again, I have to
12 defer to Attorney Colleen Janssen from Wake County who
13 will give the Court the details of Mr. Williams's
14 cooperation with the State.

15 MS. JANSSEN: Good morning. I know
16 that Your Honor knows the background facts in this case
17 so I won't go into too much detail about all that. If
18 you have any questions I would be happy to answer them.
19 As a brief summary for the record, Mr. Williams was
20 part of a crew -- a four-man -- basically a four-man
21 robbery crew had committed a series of robberies in
22 Wake County as well as the robbery that they're charged
23 with in Greenville that we're here for today.

24 Along the way one of those robberies
25 ended up culminating in a homicide. As the

1 investigation went through this defendant as well as
2 three others were identified as the folks involved in
3 this series of robberies. This defendant Mr. Williams
4 ultimately was the second principal in the robbery that
5 culminated in the homicide. He was not the shooter,
6 but he was present and inside the convenience store
7 when that took place. These were all convenience
8 store, minimart-type robberies either attached to gas
9 stations or -- actually the homicide one itself was a
10 standalone.

11 This group was also responsible for a
12 home invasion in Wake County. This defendant had
13 actually pled guilty as to being a part of that home
14 invasion. That was actually the only other robbery
15 outside of the night of the homicide that this
16 defendant played any type of active role.

17 And even in that instance he was not a
18 gunman or a principal but kind of a way in the door for
19 some folks behind him. What I would tell you about
20 this young man is that out of the group of four he
21 participated in the very least amount of the criminal
22 activity that group is responsible for.

23 Now, that is not to excuse his conduct
24 because he certainly knew what his brother and the
25 other ones were up to. And I don't think that he

25 His cooperation at the state level was

1 complete and thorough. He was the last of the three
2 that I approached about cooperating. His cooperation
3 came late in the game but that was due to me not -- it
4 was not -- his cooperation was not asked for initially,
5 and we initially did not know how we were going to
6 proceed with him. I will tell you that once he was
7 approached with a plea offer and the chance to
8 cooperate within 48 hours he was sitting down with the
9 homicide detective and telling them what I believe to
10 be a truthful account of what happened.

11 Over the course of the following seven
12 months he met with me and my investigators two or three
13 times to prepare for trial. He was forthcoming and
14 truthful and not at all self-minimizing about his own
15 role in the events. And when he was called upon to do
16 so he testified. I believe that his testimony in
17 particular was very powerful for my jury because while
18 it was a case where the homicide was captured on video
19 the video was not close up enough nor at an angle
20 enough to see faces, and the other men had their faces
21 covered. So outside of the three folks that testified
22 there was really no true way to identify them. There
23 were no fingerprints. There was no DNA. There was
24 nothing else.

25 The testimony of this defendant in

1 particular Mr. Williams -- coming in and looking at
2 that video screen and telling the jury that's me right
3 there in the hoodie and with the bandana across my face
4 and right next to me that's Steven Cooley -- I think
5 had a profound effect. And while all three of their
6 cooperation I think was probably necessary for the
7 conviction I think that for that reason because the
8 defendant was also an active participant and was able
9 to point out himself in that situation I think was
10 profoundly valuable to the State's case.

11 MR. BENNETT: Your Honor, I just want
12 to follow up that my representation is contained within
13 the motion and that we would ask that you do that today
14 which would be an identical sentence that you sentenced
15 Mr. Haddock approximately a month and a half ago.

16 THE COURT: Thank you. I will grant
17 the government's motion. It doesn't mean that I will
18 accept the specific recommendation, but Mr. Williams
19 will get credit for the substantial assistance that he
20 did provide here. At this time I'll hear from
21 Mr. Martin.

22 MR. MARTIN: Thank you, Judge. This
23 case is absolutely tragic on so many different levels.
24 It's very hard for me to capture it in a few brief
25 words and a few brief moments within this court. And

1 not only did an innocent person lose their life, not
2 only were numerous institutions robbed and greatly
3 financially disabled but my client has trashed his
4 life. And this is a huge tragedy even in the context
5 of the laws of this case. My client has no deplorable
6 criminal history up to this point.

7 He clearly has had contacts with the
8 law leading up to this, but he had no deplorable
9 criminal history. He was going to college and he was
10 trying to improve himself, and for some reason he
11 responded to the call and went over and tagged along on
12 a couple of these robberies and they were horribly,
13 horribly wrong.

14 Just from my interactions with him he
15 is smart; he is bright; he is sharp and he is
16 realistic. He has never once ever, ever tried to make
17 an excuse for what happened in this case. He is
18 overcome with the weight, with the reality of this
19 case, how it's damaged him and how it's damaged other
20 people. He has asked for nothing from me, the
21 attorneys this entire representation. By the time I
22 met him I was not involved with his cooperation. I was
23 not involved with his willingness to come forward. He
24 did this all on his own. So I inherited him. I
25 inherited him in the position that he was in this case.

12 Also, I would like you to consider
13 putting in your order that the sentence is to run
14 concurrently with the State's sentences that are to be
15 issued at a later time. In paragraphs 18 and 19 of the
16 presentence report there are at least three cases and
17 I'll just name them briefly here. 12-CRS-204989,
18 12-CRS-204988 and 13-CRS-9233. I don't know for sure
19 if there's any other pending state cases, but please
20 consider running his federal case concurrent.

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1 sentence because I believe he's going to be placed back
2 in State custody. I believe that's up to -- that the
3 judge can do this.

4 Your Honor, you have the discretion to
5 order that the place of service be not only the Federal
6 Bureau of Prisons but the State Department of
7 Corrections. And then a couple of things. One is
8 allow him to immediately start serving his time even if
9 he's in state custody. And then we also will have the
10 Federal Bureau of Prisons to award him day-per-day
11 credit once he finally gets -- if he has to be
12 transmitted back from DOC back into the BOP at a later
13 date. There's a possibility that if he goes into the
14 Department of Corrections his sentence stays in the
15 state system. The Bureau of Prisons may not pick him
16 up for years.

17 If we don't put this language into the
18 judgment then there's a possibility that the Bureau of
19 Prisons will just say, okay, you served on your state
20 sentence and not give him any credit for that time and
21 they'll put him back in and start serving the federal
22 sentence.

23 So I'm just trying to ask for
24 provisions that will allow him to get credit to get
25 concurrent sentences. I'm just trying to make it work.

1 That's all I'm really trying to do. And if the
2 prosecutors in this case make suggestions I would be
3 happy to hear them.

4 MR. BENNETT: Your Honor, actually, on
5 that topic is that the district attorney's planning to
6 aggregate or to eliminate the state bond. He'll be
7 sentenced on that this week and then he'll immediately
8 come into federal custody as this time.

9 THE COURT: How are these charges
10 going to be resolved in the state court?

11 MS. JANSSEN: Your Honor, he will
12 receive a -- the sentencing is ultimately left up to
13 the trial judge but I anticipate that --

14 THE COURT: Paragraph 18 and 19 of the
15 PSR. If you can, show that to Mr. Bennett. Those
16 paragraphs say the charges are pending.

17 MS. JANSSEN: They are. He has pled
18 guilty but has not yet been sentenced.

19 THE COURT: What did he plead guilty
20 to?

21 /STKPWR: He plead guilty to one count
22 of second-degree murder and robbery with a dangerous
23 weapon and two counts of conspiracy and robbery with a
24 dangerous weapon.

25 THE COURT: Say that again.

1 Second-degree murder and what else?

2 MS. JANSSEN: Robbery with a dangerous
3 weapon and conspiracy to commit robbery with a
4 dangerous weapon. And all of that was in connection to
5 the robbery and homicide on December 2nd, 2011. Then a
6 separate count of conspiracy to commit robbery with a
7 dangerous weapon for an event that took place on
8 December 6th of 2011. His agreement with the State was
9 that the sentencing judge -- that the sentence would be
10 in the discretion of the sentencing judge but that he
11 shall receive no less than a combined total of 180
12 months.

13 My intention at this time given that
14 he has in my opinion fulfilled every aspect of his
15 agreement with the State is that that is exactly what I
16 will ask the sentencing judge for is 180 months. I
17 obviously don't have a crystal ball but my belief is
18 that the sentencing judge will do exactly that. When
19 Mr. Haddock was sentenced in State Court I asked for
20 exactly the minimum that he had been offered and that
21 is what the judge gave. My anticipation is that he
22 will receive 180 months minimum.

23 THE COURT: Mr. Bennett, is the United
24 State's position that you think it should run
25 concurrently?

1 MR. BENNETT: It is, Your Honor.

2 THE COURT: Why is that?

3 MR. BENNETT: Your Honor, it's the
4 same -- we believe it's in the same posture as
5 Mr. Haddock was and you recommended that they run
6 concurrently as well. It's all from the same general
7 course of conduct -- the same scheme of course of
8 conduct or activity. And as part of his cooperation --

9 THE COURT: Haddock -- did he plead
10 guilty to second-degree murder?

11 MS. JANSSEN: Mr. Haddock did not
12 plead guilty to anything in connection to the December
13 11th case.

14 THE COURT: He was the person who was
15 very smart and had a good memory and even though
16 everybody changed outfits every robbery he remembered
17 everybody's clothing, etc. I remember. So tell me why
18 -- so it seems that Mr. Haddock is different than
19 someone who is convicted of second-degree murder. At
20 least I think common sense suggests to me that a person
21 who is guilty of second-degree murder is different.

22 MR. BENNETT: Your Honor, your common
23 sense is absolutely correct on that. I argue that he
24 is -- that it is the same as Mr. Haddock. Again, all
25 we are -- we've made a recommendation given his

1 cooperation. We just ask that your sentence be made to
2 run concurrently to the State's sentence. That's based
3 on the cooperation he gave as laid out by
4 Ms. Janssen -- the significance of his testimony in
5 obtaining the conviction of Mr. Cooley being convicted
6 of first-degree murder. We obviously understand the
7 Court's concern with that. We're not taking that
8 lightly at all. We're just basically informing of the
9 nature of his cooperation.

10 THE COURT: Have the victims of this
11 robbery been notified?

12 MR. BENNETT: They have, Your Honor.

13 THE COURT: Any of them here?

14 MR. BENNETT: No, Your Honor.

15 THE COURT: Mr. Martin.

16 MR. MARTIN: Yes, Your Honor. I think
17 it's important to keep in perspective the factual
18 posture of my client. Again, tragic consequences, poor
19 judgment. He is guilty of second-degree murder by
20 virtue of accomplice liability, not by virtue of
21 holding the firearm, pointing it at a person, pulling
22 the trigger. That's not what he did. He was merely
23 present during the crime, was part of the crime, an
24 accomplice. And we're all familiar with the felony
25 murder rule. It's a horrible thing, but I think at the

1 no attorneys were questioning him or prodding him. He
2 knew what happened. He was like, oh. He was crushed.
3 He knew. He has accepted completely his responsibility
4 for this conduct in all these cases. So please, please
5 keep that in perspective in your sentencing him.

6 THE COURT: I'll hear from
7 Mr. Williams if you would like to make a statement,
8 sir.

9 MR. WILLIAMS: Your Honor, I just want
10 to say that I won't try to downplay the events or none
11 of my crimes that I committed. I take full
12 responsibility. I know it was bad judgment that night
13 and also that I felt bad about it and I know somebody
14 shouldn't have died that night. At the end of the day
15 he still should be here to this day. I feel -- I do
16 feel bad about that, and I just ask for forgiveness
17 every day for that situation. I think about it every
18 night and every day and ask for a second chance.

19 THE COURT: All right. Thank you,
20 sir. Mr. Bennett.

21 MR. BENNETT: Your Honor, I think
22 we've added everything we need to say and the Court has
23 that contained within the motion. Thank you, Your
24 Honor.

25 THE COURT: All right, Mr. Williams.

10 Among other things I have to consider
11 the nature and circumstances of the offense and history
12 and characteristics of the defendant; the need for the
13 sentence imposed to reflect the seriousness of the
14 offense, to promote respect for the law and provide
15 just punishment; the need to deter others who might
16 choose to engage in criminal behavior that brings you
17 here; the need for the sentence imposed to protect the
18 public from further crime; the need for the sentence
19 imposed to provided you with needed educational and
20 vocational training and medical care and professional
21 treatment in the most effective manner. The statue
22 lists a number of other factors. I have considered all
23 those factors although I won't mention each one
24 individually.

25 As for the nature and circumstances of

1 the offense you did interfere with commerce by robbery
2 and aiding and abetting. You did carry a
3 short-barrelled firearm during the relation a crime of
4 violence and aiding and abetting. In connection with
5 the Food Lion robbery as described in Counts 1 and 2
6 there were apparently five employees and five customers
7 in the store and a driver in connection with that armed
8 robbery that took place in the Eastern District of
9 North Carolina. It is a serious offense.

10 As for your history and
11 characteristics you're 24 years old. You've been
12 involved in criminal activity for the last two years.
13 Robberies have been involved as I've described here
14 today in connection with the robbery that took place at
15 the smoke shop, the home invasion and then the robbery
16 of the Food Lion. Those are serious offenses. You do
17 have some college. I have taken Mr. Martin at his word
18 that you are bright. Your report indicates that you
19 were not incarcerated. You were smoking approximately
20 four points of marijuana a day which obviously is not
21 conducive to clear thinking. You do have some work
22 history, although not too much.

23 The Court will impose a sentence that
24 takes into account the substantial assistance that
25 you've provided in connection with the Cooley trial as

1 described by Ms. Janssen. You were apparently
2 instrumental in connection with that case. I'll give
3 you credit for that. You've also provided substantial
4 assistance according to Mr. Bennett's motion in this
5 case. I'll give you credit for that. I think you do
6 need to be incapacitated. You certainly need to be
7 punished. These are horrific crimes. People go to
8 work at a place like Food Lion just trying to make
9 money to support their families and a group of thugs
10 come in with guns and curse at them and move them
11 around the store, get a few dollars. It's disgraceful
12 behavior. People engage in it knowing that they're
13 going to spend time in federal prison if they do it and
14 they come here -- and you will.

15 I will impose a sentence that takes
16 into account the entire record, your substantial
17 assistance. I have fully considered the entire record
18 in this case; the Sentencing Reform Act of 1984. It is
19 hereby the Supreme Court's decision, United States V.
20 Booker it is the judgement that the defendant Demario
21 Quientel Williams is hereby committed to the custody of
22 Bureau of Prisons to be in prison for a term of 37
23 months on Count 1 to be followed by 93 months
24 consecutive on Count 2 for a total term of 120 months.
25 Pursuant to the plea agreement Count 3 is dismissed. I

1 do direct that the sentence run concurrently to
2 whatever sentence he receives on pending state charges.
3 His place of service shall be within the NC DOC.

4 Upon release of your imprisonment the
5 defendant shall be placed on supervised release for
6 three years to run consistent three years on Count 1
7 and three years on Count 2 to run concurrently. Within
8 72 hours of release from FCI Bureau of Prisons you
9 shall report personally to the probation office in the
10 district in which you are released. While on
11 supervised release you shall not commit another
12 federal, state or local crime. You shall not illegally
13 possess a controlled substance. You shall not possess
14 a firearm or destructive device. You shall comply with
15 the standard conditions adopted by this Court and
16 follow any additional conditions. You will participate
17 as directed by probation in a program to treat narcotic
18 addiction and consent to a warrant to search. You'll
19 cooperate in the collection of DNA. You will pay a
20 special assessment of \$200 which will be due
21 immediately. I'm not going to impose a fine.

22 Mr. Williams, you can appeal your
23 conviction if you believe your guilty plea was somehow
24 unlawful or involuntary or there was some other
25 fundamental defect in the proceeding that was not

1 waived by your guilty plea. You also have a statutory
2 right to appeal your sentence under certain
3 circumstances. I believe you have entered into a plea
4 agreement that contains an appellate waiver. I believe
5 you've waived your right to appeal your sentence.

6 If you believe that the waiver is
7 unenforceable or inapplicable for any reason you can
8 present that theory to the Appellate Court. With few
9 exceptions the notice of appeal must be filed within 14
10 days of the judgment being entered on the docket in
11 your case. If you are unable to pay the costs of an
12 appeal you may file forma pauperis. If you so request,
13 the Court will prepare and file a notice of appeal on
14 your behalf.

15 I do believe I properly calculated the
16 advisory guideline range. If, however, it is
17 determined that I did not announce pursuant to U.S. v.
18 Gomez-Jiminez 750 F. 3D. 370, Fourth Circuit 2014; U.S.
19 v. Hargrove 701 F. 3D. 156, Fourth Circuit 2013 that I
20 will impose a sentence as an alternative variance
21 sentence if I have miscalculated the advisory guideline
22 range. Any other recommendations, Mr. Martin?

23 MR. MARTIN: Your Honor, did the Court
24 recommend an intensive drug treatment program?

25 THE COURT: I did.

1 MR. MARTIN: Thank you.

2 THE COURT: Anything else from the
3 government?

4 MR. BENNETT: No, Your Honor. Thank
5 you.

6 THE COURT: I thank counsel for the
7 work here today. That will conclude the matter of
8 Mr. Williams. Good luck to you, sir.

9 (Proceedings adjourned at 9:34 a.m.)
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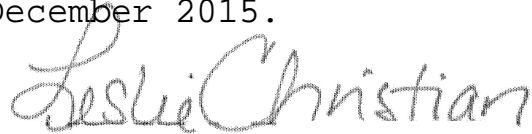
1 REPORTER'S CERTIFICATE

2

3 I, Leslie Christian, court reporter, do hereby
4 certify that the pages contained herein accurately
5 reflect the notes taken by me, to the best of my
6 ability, in the above-styled action.

7 This the 15th day of December 2015.

8



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10 Leslie Christian,
11 Court Reporter

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